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**TO:**

Name: Mail Stop AMENDMENT  
Group Art Unit 3731/Examiner Uyen Ho

Firm: U.S. Patent & Trademark Office

Fax No.: 571-273-8300

Subject: U.S. Patent Application No. 10/098,683  
Gary Karlin Michelson

Filed: March 15, 2002

SPINAL IMPLANT CONTAINING BONE

MORPHOGENETIC PROTEIN

Attorney Docket No. 101.0042-05000

Customer No. 22882

Confirmation No.: 7210

**FROM:**

Name: Thomas H. Martin, Esq.

Phone No.: 330-877-2277

No. of Pages (including this): 4

Date: June 13, 2006

Confirmation Copy to Follow: NO

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**Message:**

**CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8**

I hereby certify that the attached Information Disclosure Under 37 C.F.R. 1.97(b) and Form PTO-1449 are being facsimile transmitted to the U.S. Patent and Trademark Office on June 13, 2006.



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PATENT  
Attorney Docket No. 101.0042-05000  
Customer No. 22882

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 13 2006

In re Application of: Confirmation No.: 7210  
Gary Karlin Michelson )  
Serial No.: 10/098,683 )  
Filed: March 15, 2002 )  
For: SPINAL IMPLANT CONTAINING )  
    BONE MORPHOGENETIC )  
    PROTEIN )

Mail Stop AMENDMENT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(b)**

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(b), Applicant brings to the attention of the Examiner the documents listed on the attached PTO 1449. This Information Disclosure Statement is being filed before the mailing date of a first Office Action on the merits after the filing of a Request for Continued Examination (RCE) for the above-referenced application.

Applicant brings to the Examiner's attention U.S. co-pending applications of Applicant listed on Form PTO-1449 for the Examiner's consideration of double patenting.

Applicant respectfully requests that the Examiner consider the listed documents and indicate that they were considered by making appropriate notations on the attached form.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the listed documents are material or constitute "prior art." If the Examiner applies any of the documents as prior art against any claim in the application and Applicant determines that the cited documents do not constitute "prior art" under United States law, Applicant

reserves the right to present to the office the relevant facts and law regarding the appropriate status of such documents.

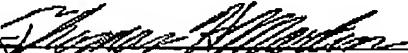
Applicant further reserves the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

If there is any fee due in connection with the filing of this Statement, please charge the fee to our Deposit Account No. 50-3726.

Respectfully submitted,

MARTIN & FERRARO, LLP

Date: June 13, 2006

By: 

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OMB 0651-0031

Substitute for FORM PTO-1449		Attorney Docket Number 101.0042-05000		Customer No. 22882	
<b>INFORMATION DISCLOSURE CITATION IN AN APPLICATION</b>		Applicant Gary Karlin Michelson		Application Number 10/098,683	
(Use several sheets if necessary) Sheet 1 of 1		Filing Date March 15, 2002		Group Art Unit 3731	Examiner Uyen T. Ho
<b>U.S. PATENT DOCUMENTS</b>					
EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS
	6,364,880	04/2002	Michelson		
	6,758,849	07/2004	Michelson		
<b>FOREIGN PATENT DOCUMENTS</b>					
	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS
<b>OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)</b>					
EXAMINER		DATE CONSIDERED			
EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP § 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to the applicant.					